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WinStar Telecommunications, Inc.

Federal Communications Commission
Washington DC 20554

In the Matters of)	CC Docket No. 96-98
Implementation of the Local Competition Provisions of the)	
Telecommunications Act of 1996)	
)	
Interconnection Between Local Exchange Carriers and)	CC Docket No. 95-185
Commercial Mobile Radio Service Providers		
Area Code Relief Plan for Dallas and Houston, Ordered by		NSD File No 96-8
the Public Utility Commission of Texas		
Administration of the North American Numbering Plan		CC Docket No. 92-237
Proposed 708 Relief Plan and 630 Numbering Plan Area		IAD File No. 94-102
Code and Ameritech Illinois		

Response by WinStar Communications, Inc. to Reply Comments of the New York Department of Public Service Petition
for Expedited Waiver of 47 C.F.R. 52.19 (3) (C) (ii)

Filed by
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Network Numbering
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1 INTRODUCTION AND SUMMARY

2
3 WinStar Communications, Inc. through its subsidiary companies, WinStar Wireless, Inc. and WinStar Telecommunications,
4 Inc. (WinStar), is a provider of Competitive Local Exchange Services (CLEC) in various markets throughout the United
5 States. As such WinStar has a keen interest in the administration of the North American Numbering Plan, and in particular,
6 the means used to ensure an adequate supply of numbers to serve the needs of entities participating in the plan. The New
7 York Department of Public Service (NYDPS) has submitted a Petition for Expedited Waiver for Manhattan, New York City
8 of the requirement for Mandatory 10 digit dialing when utilizing an "All Service Overlay" Area Code to facilitate NPA Code
9 relief in that area. In January of 1998, WinStar filed comments in support of the deployment of an All Purpose Overlay Area
10 Code in order to provide relief for the 212 NPA in Manhattan, New York City, which is approaching exhaust. However,
11 WinStar stated in its comments that to encourage competition and benefit the public interest, any implementation of an
12 Overlay Area Code must include mandatory 10 digit dialing for all callers.
13 In its reply comments, (NYDPS) in several instances has misrepresented the facts surrounding this discussion or WinStar's
14 position in this matter. The following comments are offered in reply to NYDPS comments in order to clarify the issues
15 involved.

16
17 I
18 THERE ARE NO COMPELLING DIFFERENCES
19 BETWEEN THE CIRCUMSTANCES IN NEW YORK CITY
20 AND THOSE IN PENNSYLVANIA
21

22 Contrary to the NYDPS contention that WinStar did not answer the NYDPS contention that circumstances differ markedly
23 in New York, WinStar indicates that conditions are substantially the same in both markets. The Incumbent Local Exchange
24 Carrier (ILEC) holds a substantial majority of the NXX codes in the 212 NPA, just as it holds a substantial majority of the
25 codes in the 412 NPA in Pennsylvania (granting that the percentage is higher in 412 because competition there is virtually
26 non-existent). The argument concerning the number of rate centers is irrelevant. The 212 NPA serves the island of
27 Manhattan which covers approximately 12 square miles. The 412 NPA as it existed prior to February 1, 1998 covered 8
28 counties and hundreds of square miles. The compact nature of the Manhattan code does facilitate more efficient
29 administration of NXX codes. However, it is competitively neutral. In a non-jeopardy situation, it is no easier or more
30 difficult to obtain codes in Manhattan than in Pittsburgh.

31
32 The NYDPS seems to place substantial weight on the fact that CLEC utilization in New York is at 15% while the ILEC
33 utilization is at a reputed 80%. The NYDPS fails to take into account the fact that the ILEC has been operating in New York
34 for more than 100 years and has enjoyed a government protected monopoly for most of that time, while most CLECS have
35 been in existence for less than two years. Even if end users were fully aware and enthused about the existence of local
36 competition, and this is not the case, CLEC's could not be expected in such a brief time to achieve the fill rates that the
37 incumbent has. Many CLEC's, including WinStar have fill rates well in excess of that quoted by the NYDPS, and one must
38 therefore conclude that these statistics include companies that have recently started business and may just have obtained their
39 numbers with little or no opportunity to sell to customers.

40
41 WinStar has acknowledged and considers it a positive sign that the NYDPS has mandated Permanent Number Portability for
42 a Transparent Overlay to be deployed in Manhattan. However, we must take issue with the definition of ubiquitous
43 Number Portability deployment. The current Local Exchange Routing Guide shows two ILEC end offices, or
44 approximately 5% of its deployed offices currently equipped for Local Number Portability. (By contrast, WinStar has seven
45 offices so equipped.) Even if the ILEC were ready now to publish its other offices as ready for portability--and this is not the
46 case--the earliest date that portability could be ready is April 10, 1998. Therefore, it is not possible for ubiquitous portability
47 to be available in time to meet the quoted NYDPS time frames.

48
49 The NYDPS misstated WinStar's position concerning Number Pooling. To reiterate, WinStar believes that Number Pooling
50 will facilitate some conservation of the NXX resource, although the actual conservation effect is still the subject of
51 considerable debate and remains to be quantified. Number Pooling will not make available to any CLEC, the numbers
52 contained in "contaminated" blocks, nor will it change the fact that the ILEC already controls more NXX codes in 212, (a
53 total of 643), than all other competitors combined. Number Pooling, particularly in the absence of Number Portability
54 stifles competition because it limits the quantity of easily recalled or "vanity" numbers to 10% of what is available under the

1 current system. In the interest of the industry consensus process, WinStar has reluctantly accepted Number Pooling as a
2 means to conserve the Numbering Resource. However, Number Pooling is just that, a means of conservation, not a means to
3 promote competition. Therefore, it is not and should not be regarded as a safeguard which differentiates the New York
4 market or justifies the implementation of anything other than mandatory 10 digit dialing.
5

6 II

7 8 THE TECHNICAL CONSTRAINTS PUT FORTH BY WINSTAR 9 ARE EXTREMELY RELEVANT TO WHETHER AN OVERLAY 10 SHOULD REQUIRE 10 DIGIT DIALING 11

12 In its Reply Comments, the NYDPS demonstrates a deficiency in its knowledge of Central Office, PBX and Key Telephone
13 System programming. The NYDPS describes as a "red herring" WinStar's argument concerning technical requirements for
14 reprogramming of Local Exchange Carrier switching equipment and end user PBX and Key System equipment. As will be
15 demonstrated below, this argument is extremely relevant to the debate. The NYDPS claims that the same level of effort
16 would be required for conversion to mandatory 10 digit dialing as to implement a transparent overlay. This is simply not the
17 case. Current software releases (Generics) for existing Central Office Equipment support Mandatory 10 digit dialing and can
18 be programmatically deployed by a trained technician who is already a member of a carrier's staff. In the case of PBX's and
19 Key Systems, one simple global command input by a trained end user, at no cost other than the employee's time, will activate
20 the new rule. By contrast, the scenario required by the NYDPS would necessitate the rewrite of system software by the
21 manufacturer. These software updates would require an expenditure ranging from several hundred to several thousand
22 dollars per system in order to incorporate the new requirements.
23

24 The NYDPS contention that no disruption resulted from the deployment of the 917 NPA is simply not relevant to the
25 instant proceeding. First of all, 917 is Special Purpose Overlay limited to Wireless Carriers, not an All Purpose Overlay.
26 Second, at the deployment of 917, substantially all Wireless customers in LATA 132 were forced into the 917 NPA, making it
27 functionally and competitively the same as a Geographic NPA Split. The difference lay in the fact that instead of geography,
28 technology was the defining factor for the split. In the case of the proposed Overlay with 7 digit home NPA dialing, there is
29 no distinguishing geography or technology. By default, the distinguishing characteristic, particularly at the beginning of
30 deployment is the length of time that the carrier has been in business. Such a distinguishing characteristic is anti competitive
31 and should not be allowed.
32

33 III

34 35 MANDATORY 10 DIGIT DIALING WILL 36 NOT HARM CUSTOMERS IN NEW YORK CITY, 37 BUT IT WILL BENEFIT THEM BY PRESERVING COMPETITION 38

39 WinStar is particularly troubled by the NYDPS comments in this area. Here, the Department contradicts itself. On the one
40 hand, the NYDPS claims that the need to dial 10 digits for all calls would impose an onerous burden on the public. On the
41 other hand, the NYDPS sees no burden at all for customers of the incumbent to dial 10 digits to reach a CLEC in the Overlay
42 NPA, or vice versa. It has already been accepted by all parties that a certain amount of customer resistance will arise initially
43 from the need to dial 10 digits to place a local call. The NYDPS seems to feel that the ILEC, its customers, and any CLEC
44 fortunate enough to have all of its codes in the 212 NPA should receive preferential treatment over those who would be
45 isolated in the Overlay code until that code becomes significantly filled. In essence the NYDPS contention is that an onerous
46 burden for the ILEC and its customers is one that the CLEC community and its customers should simply accept "as a cost of
47 entering a market that was previously a monopoly." This position is neither reasonable, pro-competitive, or mindful of the
48 public interest.
49

50 CONCLUSION

51
52 As previously stated, Mandatory 10 Digit Dialing is less confusing and less expensive for end users. It advances pro
53 competitive interests because access to all carriers is equivalent. Finally, contrary to NYDPS contentions, Overlay NPAs
54

1 have been implemented in major metropolitan areas in Maryland and Georgia without significant problems or complaints.
2 WinStar, therefore urges the Commission to deny the Petition for Waiver.

WinStar requests that the petition be denied.

A handwritten signature in black ink, appearing to read "Daniel F. Gonos", written over a horizontal line.

Daniel F. Gonos

Senior Manager, Numbering Policy and Resources